

Approved: _____

MARCIA S. COHEN

Assistant United States Attorney

Before: THE HONORABLE LISA MARGARET SMITH
United States Magistrate Judge
Southern District of New York

17 mag 7379

SEALED COMPLAINT

UNITED STATES OF AMERICA

:

- v -

:

Violation of
18 U.S.C. § 2251(a)

JAMES EARLY,

:

COUNTY OF OFFENSE:
SULLIVAN

Defendant

:

SOUTHERN DISTRICT OF NEW YORK, ss.:

KELLEY MCMANUS, being duly sworn, deposes and says that she is a Special Agent with the Department of Homeland Security, Homeland Security Investigations and charges as follows:

Count One

1. From at least in or about July 25, 2015, up to and including in or about March 21, 2017, in the Southern District of New York and elsewhere, JAMES EARLY the defendant, knowingly employed, used, persuaded, induced, enticed, and coerced a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct and for the purpose of transmitting a live visual depiction of such conduct, and the defendant knew and had reason to know that such visual depiction would be transported and transmitted using a means and facility of interstate and foreign commerce and in or affecting interstate and foreign commerce and mailed, and such visual depiction was produced and transmitted using materials that had been mailed, shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, and

such visual depiction was actually transported and transmitted using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce and mailed, to wit, JAMES EARLY, the defendant, persuaded, induced and enticed a minor to engage in sexually explicit conduct, photograph the conduct and send it, via text messages, to the defendant.

(Title 18, United States Code, Section 2251(a) and (e).)

The bases for my knowledge and for the foregoing charge, are, in part, as follows:

2. I am a Special Agent with the Department of Homeland Security, Homeland Security Investigations ("HSI"), assigned to the HSI Hudson Valley Office. I have been a Special Agent with HSI and its predecessor agencies since 2003. During my tenure as a Special Agent, I have conducted and participated in numerous investigations of criminal activity involving crimes against children, including the receipt, possession, and/or distribution of child pornography by electronic means, sexual exploitation, and enticement of minors. I have gained expertise in these areas through training and daily work related to conducting these types of investigation. I have been personally involved in the investigation of this matter. This affidavit is based upon my conversations with law enforcement officers and others, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

3. In or about June 2017, I spoke to an investigator with the New York State Police (the "Investigator") who told me that, on or about April 20, 2017, the New York State Police received a report from an individual ("Witness-1") who reported that she had learned that her 17-year-old stepdaughter ("Victim-1") had engaged in an online relationship with an adult male over the past two years.

4. Based on my conversations with the Investigator, I am aware that the Investigator met with Victim-1 on or about April 21, 2017 and Victim-1 reported the following, in substance:

- a. Victim-1 began communicating with JAMES EARLY, the defendant, on "Kik," a social media application, when Victim-1 was 15 years old;
- b. At or about the time she began communicating with EARLY, Victim-1 told EARLY that she was 15.
- c. On several occasions, while she was in Sullivan County, New York, Victim-1 sent JAMES EARLY nude photographs of herself;
- d. On at least two occasions, when she was approximately 17-years-old, Victim-1 met JAMES EARLY in person in Pennsylvania. On at least one occasion, he put his hand down her pants and touched her vagina under her underwear;
- e. Victim-1 and EARLY communicated via text messages;
- f. Victim-1 sent EARLY text messages from Victim-1's phone to telephone number 570-492-0611.

5. Based on my conversations with the Investigator, I am aware that Victim-1 provided her cell phone (the "Victim-Phone") to the Investigator and consented to a search of it. The New York State Police conducted a forensic analysis of the Victim-Phone. I have reviewed the results of that forensic analysis. The analysis reveals the following, among other things:

- a. Text messages recovered from the Victim-Phone reveal numerous communications between the Victim-Phone and phone number 570-492-0611 ("Early-Phone"). These communications occur from at least

July 25, 2015 and continue until at least March 21, 2017

- b. Many of the text communications are sexually explicit. For example, on October 27, 2015, a message from the Early-Phone to the Victim-Phone asked, "What class are you in right now what are you doing?" The Victim-Phone replied, "is history." The Early-Phone replied, "My tongue licks between your lips tasting your sweet wet pussy. And tease your clit and then I tongue fuck you till you beg for more than just my tongue. I slide up your body and kiss you allowing you to taste yourself on me My body sliding against yours making you yearn to feel me inside of you."
- c. There are numerous sexually explicit photos sent from the Victim-Phone to the Early-Phone that appear to have been sent in response to requests for such photos from the Early-Phone. For example, on August 11, 2015, there are a number of sexually explicit photos of a female's genitalia that were sent by the Victim-Phone to the Early-Phone. Text messages from the Early-Phone to the Victim-Phone at or around the time these photos were transmitted to the Early-Phone state "Now spread those lips baby" and "Two more one of your finger in your pussy" and "And one of you sucking that finger."
- d. A number of images depicting an erect penis were transmitted from the Early-Phone to the Victim-Phone. One of these images was sent to the Victim-Phone on August 3, 2015. On August 11, 2015, an image of a man revealing his face, chest and erect penis was sent from the Early-Phone to the Victim-Phone.
- e. A video, recovered from the Victim-Phone that was sent from the Early-Phone to the Victim-Phone on

August 1, 2015, of approximately 29 seconds in duration, depicts a white male with one hand on his penis. He appears to be masturbating. During the activity, he says Victim-1's name. Another video that was sent from the Early-Phone to the Victim-Phone on September 30, 2015, of approximately 55 seconds in duration, depicts a white male captured from the waist down, with one hand on his penis. He appears to be masturbating. During the activity, he says Victim-1's name and says, "You need to be here so bad."

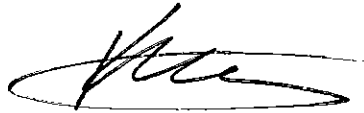
- f. The images sent from the Early-Phone include one image, transmitted to the Victim-Phone on September 30, 2015, that depicts a man standing in front of a mirror holding his phone. The man is not wearing any clothes but there is a hat that appears to be suspended over his genital area.
- g. A photo sent from the Early-Phone to the Victim-Phone on August 7, 2015 depicts a clothed adult male sitting in a car with his seatbelt on.
- h. The images sent from the Victim-Phone to the Early-Phone include a number of photos of a female in which the female's face is visible. On March 10, 2017, a series of photos was sent from the Victim-Phone to the Early-Phone depicting a topless female. In several of these photos, the female's face is partially visible and in one of the photos, the face is fully visible. In one of the photos, there are clothespins attached to the female's nipples. In four of the photos, there are clips attached to her nipples.
- i. A text message sent from the Victim-Phone to the Early-Phone on September 4, 2015 attached a photograph of what appears to be Victim-1's New York State Learner's Permit. The Permit is issued

to Victim-1 and contains a photograph of a female who appears to be the same female who appears in the photos described in paragraph (h) above. Under the words, "New York State Learner Permit" are the words, in red capital letters, "Under 21."

6. I have reviewed records obtained from the Pennsylvania Department of Motor Vehicles relating to JAMES EARLY, the defendant, which reflect an address (the "Address") in Selinsgrove, Pennsylvania. The records include a photograph of JAMES EARLY, the defendant. The photograph of JAMES EARLY in the records depicts the same individual who appears in the photographs described in paragraph 6(f) and 6(g) sent from the Early-Phone to the Victim-Phone.

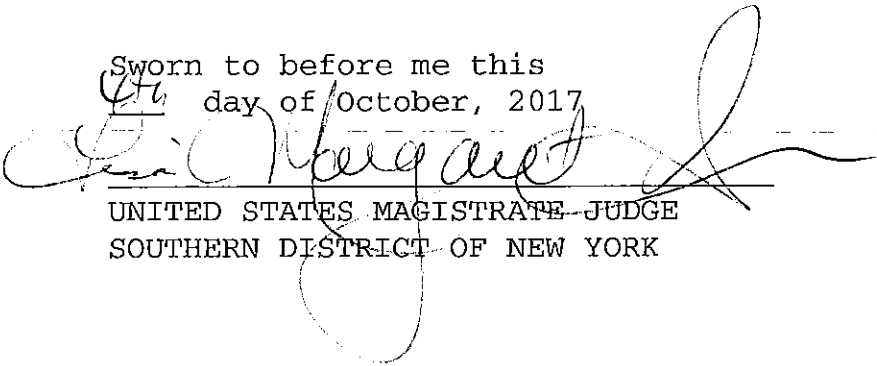
7. I have reviewed records relating to the Early Phone which reflect that the subscriber is a "Jessica Early" at the Address.

WHEREFORE, deponent prays that JAMES EARLY, the defendant, be arrested and imprisoned or bailed, as the case may be.



KELLEY MCMANUS
Special Agent
Homeland Security Investigaiton

Sworn to before me this
4th day of October, 2017



UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK